

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: SB 856

INTRODUCER: Senator Bennett

SUBJECT: Coastal Management

DATE: April 1, 2009

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wolfgang	Yeatman	CA	Favorable
2.	Pugh	Cooper	CM	Favorable
3.			TR	
4.			TA	
5.				
6.				

I. Summary:

Currently, s. 163.3178, F.S., exempts from Development of Regional Impact (DRI) review certain improvement projects at Florida's 14 public deep-water ports; port-related projects eligible for state funding under s. 311.07(3)(b), F.S.; and intermodal projects listed in the state's Seaport Mission Plan.

SB 856 adds to that list of exempted activities certain port-related commercial or industrial projects that are located in, or within 3 miles of, a port master plan area and which rely upon the use of port and intermodal transportation facilities.

This bill amends section 163.3178 of the Florida Statutes.

II. Present Situation:

Comprehensive Planning and Coastal Management

The Local Government Comprehensive Planning and Land Development Regulation Act, contained in ss. 163.3161-163.3246, F.S., establishes a growth management system in Florida that requires each local government (or combination of local governments) to adopt a comprehensive land-use plan. The local government comprehensive plan is intended to be the policy document guiding local governments in their land-use decision-making.

Section 163.3177, F.S., requires each comprehensive plan to include certain "elements" that address different aspects of growth management, including the following: capital improvements; a future land-use plan; traffic circulation; general sanitary sewer, solid waste, drainage, potable

water, and natural groundwater aquifer recharge; conservation; recreation and open space; and intergovernmental coordination elements.

Local governments in coastal areas of the state also are required to include a “coastal management element.”¹ The coastal management element must include policies to guide the local government’s decisions and implementation of the following objectives:

- Maintenance, restoration, and enhancement of the overall quality of the coastal zone environment, including, but not limited to, its amenities and aesthetic values.
- Continued existence of viable populations of all species of wildlife and marine life.
- The orderly and balanced utilization and preservation, consistent with sound conservation principles, of all living and nonliving coastal zone resources.
- Avoidance of irreversible and irretrievable loss of coastal zone resources.
- Ecological planning principles and assumptions to be used in the determination of suitability and extent of permitted development.
- Proposed management and regulatory techniques.
- Limitation of public expenditures that subsidize development in high-hazard coastal areas.
- Protection of human life against the effects of natural disasters.
- The orderly development, maintenance, and use of the 14 deep-water ports identified in s. 403.021(9), F.S., to facilitate deepwater commercial navigation and other related activities.
- Preservation, including sensitive adaptive use of historic and archaeological resources.²

In addition, the coastal management element must outline principles to be used in eliminating inappropriate and unsafe development in coastal areas as the opportunity arises.³ Further, it must identify public access to beach and shoreline areas and address the need for water-dependent and water-related facilities.⁴ This element must identify regulatory and management techniques that a local government will use in order to mitigate the threat to human life and to control proposed development and redevelopment in order to protect the coastal environment, considering impacts cumulatively.⁵ A coastal local government also is required to include, in its coastal element, the designation of “high-hazard coastal areas,” which consist of category 1 evacuation zones.⁶ Under current growth management law, local governments are restricted from allowing development in these areas that would increase the density or intensity of the current land use.

Subsection (3) of s. 163.3178, F.S., removes from the DRI process certain port-related projects which are otherwise consistent with a port master plan. A port master plan must be included in the coastal management element of the comprehensive plan for a local government that has responsibility for the port area. A deepwater port that does not submit its master plan to the local government that has responsibility for the area and is not a part of the local government is subject to sanctions under s. 163.3184, F.S. The port master plan should address the issues listed in s. 163.3178(2), F.S., for coastal management element.

¹ Section 163.3177(6)(g), F.S.

² Section 163.3177(6)(g)1.-10., F.S.

³ Section 163.3178(2)(f), F.S.

⁴ Section 163.3178(2)(g), F.S.

⁵ Section 163.3178(2)(j), F.S.

⁶ Section 163.3178(2)(h), F.S.

The Development-of-Regional-Impact (DRI) Process

Section 380.06, F.S., provides state and regional review of local land-use decisions regarding large developments that, because of their character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of the citizens of more than one county.⁷

Regional planning councils assist the developer by coordinating multi-agency DRI review. The council's job is to assess the DRI project, incorporate input from various agencies, gather additional information and make recommendations on how the project should proceed. The Department of Community Affairs (DCA) reviews DRIs for compliance with state law and identifies the regional and state impacts of large-scale developments. The DCA makes recommendations to local governments for approving, suggesting mitigation conditions, or not approving proposed developments.

Florida's seaports

Florida has 14 publicly owned, deepwater ports that routinely need some type of dredging or facility improvement. Assisting the ports and their tenants is the Florida Seaport Transportation and Economic Development (FSTED) Council. The council is a public entity created in 1990 pursuant to s. 311.09, F.S. Administratively housed within the Florida Department of Transportation (DOT), the council consists of the port directors of the 14 seaports and a representative from each of the following state agencies: DOT, DCA, and the Governor's Office of Tourism, Trade and Economic Development.

Among the FSTED Council's responsibilities is ensuring consistency with local comprehensive plans, ensuring that seaport investments are initiated at the local level and driven by a local commitment to meet the seaport's strategic objectives. The FSTED Council also must develop a 5-year Seaport Mission Plan that is consistent with DOT's 5-Year Work Program.

Florida's ports are a significant economic generator for the state and the communities in which they are located. In 2007, the ports handled \$73.4 billion in cargo: \$40.4 billion in imports and \$33 billion in exports.⁸ Additionally, more than 14.2 million passengers embarked on cruises from Florida ports in FY 2005-2006.⁹ By 2008, Florida's ports were expected to generate an annual gross economic output of \$42.8 billion; add \$19.9 billion to Florida's gross state product; and support 348,290 jobs.¹⁰

III. Effect of Proposed Changes:

Section 1 amends s. 163.3178(3), F.S., to add port-related industrial or commercial projects, as determined by the DCA and the applicable general-purpose local government, are not DRIs if they are located in, or within 3 miles of, a port master plan area and rely upon the utilization of port and intermodal transportation facilities.

Section 2 provides that this act shall take effect July 1, 2009.

⁷ Section 380.06(1), F.S.

⁸ See http://www.flaports.org/archive/2008_section4.pdf. Page 19. Last visited March 25, 2009.

⁹ Ibid. Page 28.

¹⁰ See <http://floridaports.org/docs/seaportsvisioning10506jdsrevision%20power%20point%20to%20ports.pdf>.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Port-related industrial or commercial projects that are located in, or within 3 miles of, a port master plan area may proceed more rapidly and with less government oversight.

C. Government Sector Impact:

Regional planning councils may become less involved in review of port-related industrial or commercial projects.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.